IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11440 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

BC PATEL

Versus

ONGC LTD

---

Appearance:

1. Special Civil Application No. 11440 of 2000

MR AK CLERK for Petitioners No. 1-2,6-7,9-10,12

WITHDRAWN for Petitioners No. 3-5,8,11

MR RAJNI H MEHTA for Respondent No. 1,2

RULE SERVED for Respondent No. 3

---

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 24/12/2001

ORAL JUDGEMENT

The petitioners are employees of the ONGC in the Drilling discipline. The petitioners were initially appointed as AT(Rom) and were subsequently appointed as Rigman (Drilling) in the year 1991 and 1992 on the basis of the selection pursuant to the Departmental Promotion

Committee. Thereafter, they were promoted to the post of Topmen(Drilling) with effect from 1.1.1998. Respondent No. 3 was promoted to the post of Topman(Drilling) with effect from 1.1.1999 by Office Order dated 17.9.1999. Accordingly, in the provisional seniority list dated 18.12.1996 and the final seniority list dated 8.7.1998, respondent No. 3 was treated as junior to the petitioners.

2. On account of the settlement dated 2.2.2000 between the ONGC management and the Rigmen & Topmen Association, it was decided that AT(Rom) recruited between 1987 and 1990 and subsequently appointed as Rigmen(Drilling) were to be treated as having been appointed as Rigmen(Drilling) upon completion of one year as AT(Rom). While the petitioners also have obtained the benefit of the said settlement dated 2.2.2000, their grievance is against the manner in which the settlement is implemented. According to the petitioners, even after implementing the settlement, the ONGC should not disturb the inter se seniority of Rigmen(Drilling) on the basis of their selection at the hands of the Departmental Promotion Committee in 1991/1992 and, therefore, the order of merit at the time of such selection should be maintained while preparing the seniority list of Rigmen(Drilling) after implementing the settlement dated 2.2.2000.

3. The petition is opposed by the affidavit in reply dated 9.4.2001 filed by the Manager (Industrial Relations), ONGC, Western Regional Office at Vadodara. It is submitted that apart from the fact that the settlement is binding on all the members of the Rigmen & Topmen Association including the petitioners, the petitioners having taken advantage of the settlement are estopped from challenging the settlement. In view of the said settlement dated 2.2.2000 all the AT(Roms) and DA Gr.III(P) are deemed to have been appointed to the post of Rigman upon completion of one year service as AT(Rom) or DA Gr.III(P). Respondent No. 3-Javed A Vora was initially appointed as AT(Rom) on 24.8.1987 and thereafter under the settlement dated 2.2.2000 he is treated as Rigman(D) with effect from 24.11.1988. Similarly the petitioners have also been treated as appointed to the posts of Rigman(P) upon completion of one year service as AT(Rom).

4. Having heard Mr AK Clerk, learned counsel for the petitioners and Mr Rajni H Mehta, learned counsel for the ONGC, it appears to the Court that when the petitioners have taken the benefit of the settlement dated 2.2.2000

which provides that the employees appointed as AT(Rom) shall be considered for appointment as Rigmen on completion of one year service from the date of their joining the service in the organization, the petitioners are estopped from raising any challenge which would require variation of the terms of the settlement. Having taken advantage of the settlement, the petitioners cannot be permitted to approbate and reprobate. They are bound by the terms of the settlement and, therefore, there is no substance in the grievance made in this petition.

5. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

(M.S. Shah, J.)

sundar/-